

Appl. No. 10/764,190
Atty. Docket No. 9495
Response dated January 18, 2007
In response to Office Action of October 18, 2006
Customer No. 27752

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REMARKS

Claim Status

Claims 1, 4-13, and 17-18 are pending. Claims 1, 4-13, and 17-18 stand rejected under 35 USC § 102. With this response, no claims are withdrawn, canceled, amended, or added.

Claim Objections

The Office Action objected to claims 1 and 9 as failing to use proper claim language. The Applicant has reviewed the language of claims 1 and 9 and respectfully submits that claims 1 and 9, as previously presented, are in acceptable form. The Applicant submits that once an object is presented in a claim, it may be properly subsequently referred to as "said" object or as "the" object.

The Applicant notes that, throughout the claims, the indefinite article "a" is intentionally used to refer to "a shelf." The Applicant points out that the claims were amended to include this usage in response to a § 112 rejection by Examiner Dooley in the Final Office Action of April 19, 2006. (Page 3, paragraph 4.) Therefore, the Applicant submits that claims 1 and 9, as previously presented, are in acceptable form. As a result, the Applicant respectfully requests reconsideration and withdrawal of the objections to claims 1 and 9.

Rejections Under 35 USC § 102 Over Heroy

Claims 1, 4-13, and 17-18 stand rejected under 35 USC § 102(b) as being anticipated by Heroy (U.S. 3,669,278). The Applicant does not admit that any characterization by the Office Action regarding these rejections is correct, but discusses such characterizations herein for the sake of argument. The Applicant traverses the rejections of the pending claims under 35 USC § 102 over the Heroy reference for the reasons discussed below.

Independent claim 1, as previously presented, recites in part a "shelf display apparatus" wherein a "first lower end is connectable to a shelf in a first plane" and the apparatus includes a "top support member oriented in a second plane parallel to the first plane." The Office Action cited a shelf divider 13 of the Heroy reference against the top support member of the Applicant's claim 1 and stated that the "top section 13 is parallel

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to the first plane of the shelf." (Page 3, carryover paragraph.) From the Applicant's review, the shelf divider 13 of the Heroy reference appears to be continuously curved in a plane perpendicular to a plane of the shelf (Fig. 6) and does not appear to include a "top support member oriented in a second plane parallel to" the plane of the shelf, as described in the Applicant's independent claim 1.

For this reason, the Applicant asserts that the Heroy reference does not disclose each and every element of the Applicant's independent claim 1. As a result, the Applicant respectfully requests reconsideration and withdrawal of these 102(b) rejections for independent claim 1 and for the claims which depend therefrom.

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Conclusion

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This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the cited references. Accordingly, the Applicant respectfully requests reconsideration of this application and allowance of the pending claims.

Respectfully submitted,

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